



November 19, 2018

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BY ECF

Honorable Lewis A. Kaplan
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: In re: Customs and Tax Administration of the Kingdom of Denmark (SKAT) Tax Refund Litigation, Docket Number 18-md-02865-LAK, Member Case 18-cv-010100-LAK

Dear Judge Kaplan:

This letter relates to *SKAT v. Newsong Fellowship Church 401K Plan and Alexander Jamie Mitchell III*, Civ. No. 18-cv-10100-LAK (the “Newsong Action”).

We write on behalf of our clients Newsong Fellowship Church 401K Plan and Alexander Jamie Mitchell III (the “Defendants”) to inform the Court as to the status of the Newsong Action, which was transferred from the Eastern District of Pennsylvania to this Court as part of the multi-district consolidated action *In re: Customs and Tax Administration of the Kingdom of Denmark (SKAT) Tax Refund Litigation*, Docket Number 18-md-02865-LAK (the “MDL”).¹

The Newsong complaint includes six common law claims under Pennsylvania law: fraud, aiding and abetting fraud, negligent misrepresentation, unjust enrichment, money had and received, and payment by mistake. The Defendants intend to file a motion to dismiss SKAT’s complaint in the Newsong Action but have yet to do so for the following reasons. First, it is Defendant’s position that that the three fraud based claims are time barred by the controlling statute of limitation.² As a result, we approached counsel for SKAT and asked that SKAT voluntarily withdraw those claims. It is our understating that SKAT has now agreed to do so and

¹ This firm also represents defendants in another related case before this Court as part of the MDL and currently has motions for admission *pro hac vice* pending in the Newsong Action and in that other related action (18-cv-09797).

² Specifically, Pennsylvania recognizes a two-year statute of limitations for actions sounding in fraud. 42 Pa.C.S. § 5524.

intends to file the appropriate notice withdrawing those claims with the Court. Second, in light of these discussions, the parties requested, and Judge Jeffrey L. Schmehl of the Eastern District of Pennsylvania granted, a number of extensions of time to respond to the complaint. At the time the MDL-consolidation was granted, the deadline to respond was October 19, 2018. Third, on October 5, 2018, counsel for SKAT, Sarah L. Cave, requested that the Court “adjourn all pending deadlines set by any transferor court in any of the related actions that are in the process of being transferred to this Court,” and the Court subsequently extended *sine die* all pending deadlines set by transferor courts.” See Doc. No. 50 filed in *In re SKAT Tax Refund Scheme Litigation*, Master Docket, 18-cv-04047. Finally, with Procedural Order No. 4, dated October 10, 2018, this Court stayed all motions to dismiss in actions being transferred to this Court as part of the MDL. See Procedural Order No. 4, ¶ 5.

Based on the foregoing, Defendants intend to file their motion to dismiss the Complaint in the Newsong Action once the Court lifts the stay imposed by Procedural Order No. 4 and respectfully request their motion be considered with the other motions that have been stayed.

Thank you.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "JCB". It is enclosed in a blue oval.

John C. Blessington

cc: All counsel of record via ECF.